

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1483 OF 2005
IN
CRIMINAL APPEAL NO. 100 OF 2005

Raju Francis Fernandes ... Applicant

V/s

The State of Maharashtra ... Respondent

Smt. Manjula Rao for applicant
Shri A.M. Shingarpure, APP for the State

Coram : V.M. Kanade, J.
Dated : 30.03.2005

P.C. :-

. I have heard learned counsel appearing for the applicant and APP for the State.

. Learned advocate for the applicants states that the applicant is convicted for an offence punishable under section 395 of Indian Penal Code and is sentenced to suffer R.I. for 3 years.

. The prosecution case is that on the date of incident 4 unknown persons entered into house of the complainant and committed dacoity on the point of chopper and revolver and ran away with case worth Rs.75,000/-.The applicant was arrested on 7.10.1997 and identification parade was held on 27.12.1997 in jail. Learned counsel appearing for applicant submits that there was no recovery at the instance of the applicant. The Special Executive Magistrate while holding identification parade has not followed a procedure as per provisions laid down in

criminal manual. However, since identification parade was held in jail, no reliance can be placed on said identification parade.

. The learned APP appearing on behalf of the State submits that so far as the present applicant is concerned, there are two cases pending against him. One is under section 379 and other is under sections 323 and 324 read with section 34 of Indian Penal Code.

. In my view, considering the facts of the case, only evidence against the present applicant is in the form of identification by the complainant. The identification parade which prima facie appears to be held without following provisions laid down in the criminal manual and it is an admitted fact that no recovery has been made at the instance of the accused. In my view, this is a fit case for grant of bail. Merely because, there are two cases pending against the accused, that would not be a justification for not granting a bail to the applicant. In the result, the applicant is released on bail on a sum of Rs.5000/- with one or two sureties in like amount. The applicant to report to Borivali Police Station once in a week. Accordingly, application is disposed of.

(V.M. Kanade, J.)